SHIELDS AND OTHERS v. MAHONEY AND OTHERS.—Decided at Richmond, April 1, 1897.—*Keith*, P:

1. INSOLVENT DEBTOR—*Assignee of chose in action—Lien of fieri facias.* An insolvent debtor may, notwithstanding his insolvency, make a valid assignment of a chose in action owned by him, and the *bona fide* assignee for value of such chose in action takes title thereto superior to the lien of a *fieri facias* against such debtor. It is immaterial whether the debtor intended to commit a fraud in making the assignment or not, if the assignee has no notice of such intent or of the existence of the *fi. fa.*, and pays value.

WILDERBERGER AND OTHERS v. CHEEK'S EXOR. AND OTHERS; BROWNING AND OTHERS v. SAME; CASSEY AND OTHERS v. SAME.—Decided at Richmond, April 8, 1897.—*Cardwell*, J:

1. WILLS—*Effect of death of legatee before the will was written.* A legacy bequeathed to a legatee who was dead at the time the will was written does not lapse or become void, but, under the provisions of sections 2521 and 2523 of the Code, passes to the issue of the legatee who survives the testator, unless a different disposition thereof is made or required by the will.

2. WILLS—*Case at bar—General class followed by enumeration of beneficiaries.* A will which provides by a prior clause for the children of a deceased sister of the testator, contains a residuary clause declaring "all the rest and residue of my estate . . . I direct my executors to distribute equally among all my nieces and nephews. They are the following: the children of my sisters (naming four sisters and two nephews). I wish the whole number ascertained and the sum divided by this number, and give each one the same sum; but only those who are alive at my death are to receive any portion of it." . . . The children of the deceased sister were not amongst those enumerated, and there was no extrinsic evidence sufficient to show that they were omitted through inadvertence. *Held:* Taking the whole will together, and considering the extrinsic evidence also, the residuum of the estate is to be divided only amongst the class specifically enumerated, and the children of the deceased sister are to be omitted.

3. WILLS—*Case at bar—Misdescription of note directed to be paid—Ademption.* A will contains this clause: "I have given my negotiable note to Anne E. Cassey, of Detroit, Michigan, for twelve thousand dollars, which note I wish paid to her as early after my death as practicable, whether due or not, with interest at six *per cent. per annum* from the date of my death till paid. I direct this sum promptly paid. She resides at Detroit, Michigan. In case of her death to be paid as stated upon the back of the note." The only note Anne E. Cassey had, or ever had, given her by the testator was a note for $10,000 payable to A. E. Cassey and others. It was endorsed, "A. E. Cassey, $4,500; George William Cheek, $4,500, A. Milligan, $1,000; to be paid in the proportion to the parties named above."

Held: The testator intended to direct the payment of the note for $10,000 and did not intend a legacy to Anne E. Cassey of $12,000, with an ademption of her interest in said note.